

# Exhibit 1



**201655855 - ABEL, SHANNON vs. BCS INSURANCE COMPANY (Court 234)**

Chronological Print  
History All  
(non-financial)

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Image No.	Title	[Reset Sort]	Post Jdgmt	Date	Pages	<a href="#">Add Entire Case</a>
72198180	Defendants Original Answer to Plaintiffs Original Petition			10/06/2016	3	<a href="#">Add to Basket</a>
72187807	Citation			10/05/2016	4	<a href="#">Add to Basket</a>
72171162	letter			10/04/2016	1	<a href="#">Add to Basket</a>
72075466	Filing Letter			09/28/2016	1	<a href="#">Add to Basket</a>
72072182	Plaintiff's Amended Original Petition			09/27/2016	7	<a href="#">Add to Basket</a>
72072183	Civil Process Request Form			09/27/2016	1	<a href="#">Add to Basket</a>
72036348	Citation			09/22/2016	4	<a href="#">Add to Basket</a>
71720404	Civil Process Pick-Up Form			08/26/2016	1	<a href="#">Add to Basket</a>
71578522	Plaintiff's Original Petition And Request For Disclosure			08/22/2016	7	<a href="#">Add to Basket</a>
>  71578524	Case Information Sheet			08/22/2016	2	<a href="#">Add to Basket</a>
>  71578525	Civil Process Request Form			08/22/2016	1	<a href="#">Add to Basket</a>

[WS6]

## CIVIL PROCESS REQUEST FORM

8/22/2016 12:19:30 PM  
 Croghan District Clerk  
 Harris County  
 Envelope No: 12290569

2016-55855 / Court: 234  
 FOR EACH PARTY SERVED YOU FURNISH ONE (1) COPY OF THE PLEADING, MONICA  
 FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED  
 Filed 8/22/2016 12:19:30 PM

CASE NUMBER: \_\_\_\_\_ CURRENT COURT: \_\_\_\_\_

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): Plaintiff's Original Petition

FILE DATE OF MOTION: 8/22/16

Month/ Day/ Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: BCS Insurance Company

ADDRESS: 350 North St. Paul Street, Dallas, Texas 75201

AGENT, (if applicable): CT Corporation System

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): Citation

SERVICE BY (check one):

<input checked="" type="checkbox"/> ATTORNEY PICK-UP	<input type="checkbox"/> CONSTABLE	
<input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____		Phone: _____
<input type="checkbox"/> MAIL	<input type="checkbox"/> CERTIFIED MAIL	
<input type="checkbox"/> PUBLICATION: Type of Publication: _____	<input type="checkbox"/> COURTHOUSE DOOR, or <input type="checkbox"/> NEWSPAPER OF YOUR CHOICE: _____	
<input type="checkbox"/> OTHER, explain _____		

ATTENTION: Effective June 1, 2010

For all Services Provided by the DISTRICT CLERKS OFFICE requiring our office to MAIL something back to the Requesting Party, we require that the Requesting Party provide a Self-Addressed Stamped Envelope with sufficient postage for mail back. Thanks you,

\*\*\*\*\*  
 2. NAME: North American Benefits Company

ADDRESS: 333 Guadalupe Street, Austin, Texas 78701

AGENT, (if applicable): Commissioner of Insurance

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): Citation

SERVICE BY (check one):

<input checked="" type="checkbox"/> ATTORNEY PICK-UP	<input type="checkbox"/> CONSTABLE	
<input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____		Phone: _____
<input type="checkbox"/> MAIL	<input type="checkbox"/> CERTIFIED MAIL	
<input type="checkbox"/> PUBLICATION: Type of Publication: _____	<input type="checkbox"/> COURTHOUSE DOOR, or <input type="checkbox"/> NEWSPAPER OF YOUR CHOICE: _____	
<input type="checkbox"/> OTHER, explain _____		

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: Muhammad S. Aziz TEXAS BAR NO./ID NO. 24043538

MAILING ADDRESS: 800 Commerce, Houston, Texas 77002

PHONE NUMBER: 713-222-7211 FAX NUMBER: 713-225-0827

area code

phone number

area code

fax number

EMAIL ADDRESS: [maziz@abrahamwatkins.com](mailto:maziz@abrahamwatkins.com)

CAUSE NUMBER (FOR CLERK USE ONLY)

2016-55855 / Court: 234

## STYLED SHANNON ABEL V. BCS INSURANCE COMPANY AND NORTH AMERICAN BENEFITS COMPANY

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:	Person or entity completing sheet is:
Name: Muhammad S. Aziz	Email: maziz@abrahamwatkins.com	Plaintiff(s)/Petitioner(s): Shannon Abel	<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____
Address: 800 Commerce	Telephone: 713-222-7211	Defendant(s)/Respondent(s):	Additional Parties in Child Support Case:
City/State/Zip: Houston, Texas 77002	Fax: 713-225-0827	BCS Insurance Company North American Benefits Company	Custodial Parent: _____
Signature: 	State Bar No: 24043538		Non-Custodial Parent: _____
[Attach additional page as necessary to list all parties]			

## 2. Indicate case type, or identify the most important issue in the case (select only 1):

Civil		Family Law		
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)
Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input checked="" type="checkbox"/> Other Debt/Contract:  Breach of Contract	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____  <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____  <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Eminent Domain/ Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other  <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIPSA) <input type="checkbox"/> Support Order
Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure  Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____		<input type="checkbox"/> Related to Criminal Matters  <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus— Pre-indictment <input type="checkbox"/> Other: _____		<input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____
Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____		<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property	<input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortsious Interference <input type="checkbox"/> Other: _____	<input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Paternity/Parentage <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____
Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax			<input type="checkbox"/> Probate & Mental Health  <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____	

## 3. Indicate procedure or remedy, if applicable (may select more than 1):

<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action	<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment	<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover
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## 4. Indicate damages sought (do not select if it is a family law case):

- Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees
- Less than \$100,000 and non-monetary relief
- Over \$100,000 but not more than \$200,000
- Over \$200,000 but not more than \$1,000,000
- Over \$1,000,000

Unofficial Copy Office of Chris Daniel District Clerk

2016-55855 / Court: 234

**CAUSE NO. \_\_\_\_\_**

## SHANNON ABEL

**IN THE DISTRICT COURT**

V.

## HARRIS COUNTY, TEXAS

**BCS INSURANCE COMPANY and  
NORTH AMERICAN BENEFITS  
COMPANY**

JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, SHANNON ABEL, Plaintiff, complaining of BCS INSURANCE COMPANY and NORTH AMERICAN BENEFITS COMPANY and for cause of action would respectfully show the court the following:

## I. DISCOVERY CONTROL PLAN

Plaintiff files this petition under a Level 3 Discovery Control Plan.

## II. REQUEST FOR DISCLOSURE

Pursuant to Rule 194.1 *et seq.* of the Texas Rules of Civil Procedure, Plaintiff hereby requests that Defendants disclose the information or material described in Rule 194.2 within fifty days of the service of this request at the office of the undersigned.

### III. PARTIES

Plaintiff, Shannon Abel, is a resident of Brazoria County, Texas.

Defendant, BCS Insurance Company, is a foreign insurance company doing business in the State of Texas and may be served through its registered agent CT Corporation System, 350 North St. Paul Street, Dallas, Texas 75201.

Plaintiff specifically invokes the right to institute this suit against whatever entity was conducting business using the assumed or common name of "BCS Insurance Company" with respect to the events described in this Petition. Plaintiff expressly invokes the right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time upon the motion of any party or of the Court.

Defendant North American Benefits Company is a foreign entity doing business in the State of Texas as a third party administrator and may be served with process by serving the Commissioner of Insurance, 333 Guadalupe Street, Austin, Texas 78701.

Plaintiff specifically invokes the right to institute this suit against whatever entity was conducting business using the assumed or common name of "North American Benefits Company" with respect to the events described in this Petition. Plaintiff expressly invokes the right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time upon the motion of any party or of the Court.

#### IV. JURISDICTION

The Court has jurisdiction of the subject matter of this lawsuit and the amount in controversy is above the minimum jurisdictional limits of this Honorable Court. Plaintiff seeks monetary relief of more than \$200,000.00 but less than \$1,000,000.00.

This court has jurisdiction over Defendants because they purposefully availed themselves of the privilege of conducting activities in the State of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendants. The assumption of jurisdiction over these Defendants will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

Plaintiff would show that these Defendants had continuous and systematic contacts with

the State of Texas sufficient to establish general jurisdiction. Furthermore, Plaintiff would show that these Defendants engaged in activities engaged in activities constituting business in the State of Texas as provided by Section 17.042 of the Texas Civil Practice and Remedies Code because said Defendants contracted with a Texas resident and performance of the agreement in whole or in part was to occur in Texas.

V. VENUE

Venue is proper in Harris County, Texas, pursuant to Texas Civil Practice and Remedies Code § 15.032 because this suit is against a life and accident insurance company and Harris County is the county in which the loss occurred.

VI. FACTS

On or about April 5, 2013, Plaintiff's late husband, Ahmad Naser ("Decedent"), was working as a tow truck driver when he stopped to assist the driver of a vehicle stalled on the side of the road at the 6300 block of the Southwest Freeway, Harris County, Texas. As he was providing this assistance, the stalled vehicle was struck by a drunk driver, resulting in the death of Ahmad Naser.

Decedent was an independent contractor who provided services for U.S. Gulf Coast Auto Sales, Inc. On the date of his death, Decedent was an eligible person under an occupational accident policy (Policy No. 9613-000-621-010104) issued to U.S. Gulf Coast Auto Sales by Defendant BCS Insurance. Said policy provided for accidental death benefits. Shannon Abel submitted an accidental death claim to BCS. On March 4, 2016, she received a letter from the administrator of the policy—Defendant North American Benefits Company—denying her claim and refusing to provide the benefits provided for in the policy.

## VII. CAUSES OF ACTION

### **A. BREACH OF CONTRACT**

On April 5, 2013, the date of Decedent's death, he was covered by an insurance policy issued and administered by Defendants, which provided for accidental death benefits. Plaintiff informed Defendants of her husband's death and that she intended to make a claim for accidental death benefits. Defendants refuse and continue to refuse to provide coverage to Plaintiff under the above-identified policy. The conduct of Defendants in denying Plaintiff's claim for accidental death benefits constitutes breach of contract. Plaintiff sues for the amount of her damages up to the policy limits. Plaintiff also sues for reasonable and necessary attorney's fees pursuant to §38.001 of the Texas Civil Practice and Remedies Code.

### **B. BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING**

Defendants owed Plaintiff a duty of good faith and fair dealing because there was an insurance contract issued by Defendants under which Plaintiff's husband was insured. Defendants owe a duty of good faith and fair dealing to its insured, like Plaintiff and her late husband. Defendants had no reasonable basis to deny or delay the payment of Plaintiff's claim because they knew that coverage of Plaintiff's claim was reasonably clear.

### **C. VIOLATIONS OF CHAPTER 541 OF THE TEXAS INSURANCE CODE**

Defendants have engaged in unfair and deceptive acts and practices in the business of insurance and have thus violated Chapter 541 of the Texas Insurance Code. Specifically, Defendants have violated Chapter 541 in the following respects:

- a. Misrepresenting to a claimant a material fact or policy provision relating to coverage at issue in violation of section 541.060(a)(1);
- b. Failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which the insurer's liability has become reasonably clear in violation of section 541.060(a)(2);

- c. Refusing to pay a claim without conducting a reasonable investigation with respect to the claim in violation of section 541.060(a)(7).

#### **D. VIOLATIONS OF CHAPTER 542 OF THE TEXAS INSURANCE CODE**

Plaintiff had a claim under a policy with Defendants. Plaintiff gave Defendants notice of her claim. Defendants are liable for the claim because Plaintiff's husband was an eligible person under a policy providing for accidental death benefits. Plaintiff presented Defendants with her claim. However, Defendants did not promptly investigate and/or pay the claim. Under Chapter 542 of the Texas Insurance Code, an insurer is liable if it does not timely pay a claim, wrongfully rejects a valid claim, or takes no action. Here, Defendants wrongfully rejected Plaintiff's claim and failed to timely pay the claim. For these reasons, Defendants are liable for violating Chapter 542 of the Texas Insurance Code.

#### **VIII. ADDITIONAL DAMAGES**

Defendants' conduct and violations of the Texas Insurance Code were committed knowingly as that term is defined by the Texas Insurance Code. Plaintiff therefore sues for "additional damages" to be determined by the trier of fact, not to exceed three times the amount of actual damages.

#### **IX. ATTORNEYS' FEES**

Plaintiff seeks recovery of such attorneys' fees and costs as provided under the Texas Civil Practice and Remedies Code.

#### **X. DAMAGES**

Plaintiff seeks compensation for the following damages:

- a. Actual damages;

- b. Past mental anguish of Plaintiff, and that which she will, in all probability, suffer in the future;
- c. Costs of suit, including reasonable attorneys' fees;
- d. Prejudgment and postjudgment interest as allowed by law;
- e. 18% interest on Plaintiff's claim for late payment under the Insurance Code;
- f. Additional damages for up to three times actual damages under the Insurance Code and; and
- g. Such other and further relief to which Plaintiff may justly be entitled.

**XI. CONDITIONS PRECEDENT**

All conditions precedent have been performed or have occurred. TEX. R. CIV. P. 54.

**XII. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited in terms of law to appear and answer herein, that upon final trial and hearing hereof, that Plaintiff recovers damages from Defendants, jointly and separately, in accordance with the evidence; that Plaintiff recovers costs of court herein expended; that Plaintiff recovers interest to which Plaintiff is justly entitled under the law, both prejudgment and post-judgment; that Plaintiff recovers actual damages; that Plaintiff recovers compensatory damages; that Plaintiff recovers punitive damages; that Plaintiff recovers 18% interest on its claim for late payment, that Plaintiff recovers additional damages of up to three times actual damages under its Insurance Code claims, and for such other further relief, both general and special, both in law and in equity, to which Plaintiff may be justly entitled.

[signature on following page]

Respectfully submitted,

**ABRAHAM, WATKINS, NICHOLS,  
SORRELS, AGOSTO & FRIEND**

/s/ Muhammad S. Aziz

MUHAMMAD S. AZIZ

State Bar No. 24043538

Federal Bar No. 868540

800 Commerce Street

Houston, Texas 77002

Telephone: (713) 222-7211

Facsimile: (713) 225-0827

[maziz@abrahamwatkins.com](mailto:maziz@abrahamwatkins.com)

**ATTORNEY FOR PLAINTIFF**



**CHRIS DANIEL**  
HARRIS COUNTY DISTRICT CLERK

ENTERED  
VERIFIED  
10/07/2016

Civil Process Pick-Up Form  
CAUSE NUMBER: 201655855  
ATY X CIV        COURT 234th

## REQUESTING ATTORNEY/FIRM NOTIFICATION

\*ATTORNEY: AZIZ, Muhammad PH: 713-222-7211

\*CIVIL PROCESS SERVER:

Attorney

\*PH:

\*PERSON NOTIFIED SVC READY:

\* NOTIFIED BY:

Type of Service Document:

CHR

Tracking Number

73281911

Type of Service Document:

CHR

Tracking Number

73281914

Type of Service Document:

CHR

Tracking Number

Process papers prepared by: Sarah Anderson

Date: 8-26-14 30 days waiting 9-26-14

\*Process papers released to:

713 244 4183

\*(CONTACT NUMBER)

Tim Bleakie  
(PRINT NAME)

Leroy Bleakie  
(SIGNATURE)

\*Process papers released by:

Iris Collins  
(PRINT NAME)

Iris Collins  
(SIGNATURE)

\* Date: 8-31-16, 2016 Time: 10:40 AM / PM

RECODER'S MEMORANDUM  
This instrument is of poor quality  
At the time of imaging

P.4

CAUSE NO. 201655855

RECEIPT NO. 0.00 ATY  
\*\*\*\*\* TR # 73281911PLAINTIFF: ABEL, SHANNON  
VS.  
DEFENDANT: BCS INSURANCE COMPANYIn The 234th  
Judicial District Court  
of Harris County, Texas  
234TH DISTRICT COURT  
Houston, TX

## CITATION

THE STATE OF TEXAS  
County of HarrisFILED  
Chris Daniel  
District Clerk

SEP 22 2016

TO: BCS INSURANCE COMPANY  
MAY BE SERVED THROUGH ITS REGISTERED AGENT CT CORPORATION SYSTEM  
350 NORTH ST PAUL STREET DALLAS TX 75201  
Attached is a copy of PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURETime: 11:00 AM  
Harris County, TexasBy *Al Collins* Deputy

This instrument was filed on the 22nd day of August, 2016, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

## TO OFFICER SERVING:

This citation was issued on 26th day of August, 2016, under my hand and seal of said Court.

*Chris Daniel*CHRIS DANIEL, District Clerk  
Harris County, Texas  
201 Caroline, Houston, Texas 77002  
(P.O. Box 4651, Houston, Texas 77210)

Generated By: ANDERSON, SARAH A Q36//10465007



## OFFICER/AUTHORIZED PERSON RETURN

Came to hand at \_\_\_\_ o'clock \_\_\_\_ M., on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.  
 Executed at (address) \_\_\_\_\_ in  
 \_\_\_\_\_ County at \_\_\_\_ o'clock \_\_\_\_ M., on the \_\_\_\_ day of \_\_\_\_\_,  
 \_\_\_\_ , by delivering to \_\_\_\_\_ defendant, in person, a  
 true copy of this Citation together with the accompanying \_\_\_\_ copy(ies) of the Petition  
 attached thereto and I endorsed on said copy of the Citation the date of delivery.  
 To certify which I affix my hand officially this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

FEE: \$ \_\_\_\_\_

\_\_\_\_ of \_\_\_\_\_ County, Texas

By \_\_\_\_\_ Deputy  
Affiant \_\_\_\_\_

On this day, \_\_\_\_\_, known to me to be the person whose  
 signature appears on the foregoing return, personally appeared. After being by me duly sworn,  
 he/she stated that this citation was executed by him/her in the exact manner recited on the  
 return.

SWEORN TO AND SUBSCRIBED BEFORE ME, on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Notary Public

Affidavit Attached

\*73281911\*

CAUSE NUMBER: 2016-55855

ABEL, SHANNON  
PLAINTIFF

VS.

BCS INSURANCE COMPANY  
DEFENDANT

IN THE DISTRICT COURT  
HARRIS COUNTY, TEXAS  
234<sup>th</sup> JUDICIAL DISTRICT

FILED  
Chris Daniel  
District Clerk

SEP 22 2016

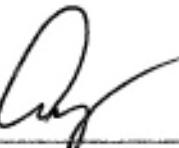
Time: 11:45 AM  
Harris County, Texas  
By 4. Clerk  
Deputy

**AFFIDAVIT OF SERVICE**

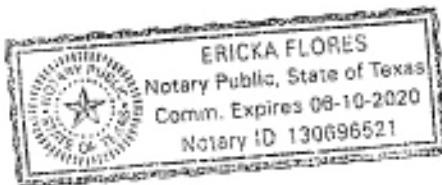
**BEFORE ME**, the undersigned authority, on this day Andrew R. Espinosa personally appeared and stated under oath as follows:

1. My name is Andrew R. Espinosa. I am over the age of eighteen (18), I am not a party to this case, and have no interest in its outcome. I am in all ways competent to make this affidavit and this affidavit is based on personal knowledge. The facts stated herein are true and correct. My business address is: **9702 Coahuila St, Houston, TX 77013**.
2. **ON 09/02/2016 @ 11:00 AM** – CITATION AND PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE **CAME TO HAND**.
3. **ON 09/07/2016 @ 9:29 AM** – The above named documents were delivered to: BCS INSURANCE COMPANY BY SERVING THROUGH ITS REGISTERED AGENT CT CORPORATION SYSTEM @ 1999 BRYAN STREET, STE. 900, DALLAS, TX 75201 **By Certified Mail, Return Receipt Requested**.
4. **SEE ATTACHED CERTIFIED MAIL RETURN GREEN CARD, (USPS TRACKING CONFIRMATION OF DELIVERY ATTACHED)**

FURTHER AFFIANT SAYETH NOT.

  
Andrew R. Espinosa, Affiant  
SCH# 454, EXP 9/30/17

**SWORN TO AND SUBSCRIBED** before me by Andrew R. Espinosa appeared on this 15 day of September, 2016 to attest witness my hand and seal of office.



  
NOTARY PUBLIC IN AND  
FOR THE STATE OF TEXAS

English

Customer Service

USPS Mobile

Register / Sign In



## USPS Tracking®

Still Have Questions?

Browse our FAQs &gt;

Get Easy Tracking Updates >  
Sign up for My USPS.

Tracking Number: 70153430000017642209

Updated Delivery Day: Wednesday, September 7, 2016

## Product &amp; Tracking Information

Postal Product:	Features:	
First-Class Mail®	Certified Mail™	Return Receipt
See tracking for related item: 9590940212885246649801		
DATE & TIME	STATUS OF ITEM	LOCATION
September 7, 2016, 9:29 am	Delivered	DALLAS, TX 75201

Your item was delivered at 9:29 am on September 7, 2016 in DALLAS, TX 75201.

September 7, 2016, 8:23 am	Sorting Complete	DALLAS, TX 75201
September 7, 2016, 8:31 am	Arrived at Unit	DALLAS, TX 75201
September 5, 2016, 5:22 am	Departed USPS Facility	DALLAS, TX 75280
September 3, 2016, 1:22 pm	Arrived at USPS Destination Facility	DALLAS, TX 75280
September 2, 2016, 10:59 pm	Arrived at USPS Origin Facility	NORTH HOUSTON, TX 77315
September 2, 2016, 5:13 pm	Departed Post Office	HOUSTON, TX 77002
September 2, 2016, 7:52 am	Acceptance	HOUSTON, TX 77002

## Available Actions

Text Updates

Email Updates

FILED

Chris Daniel  
District Clerk

SEP 22 2016

Time: 1:00pm

By A. Collins Deputy A. Collins

## Track Another Package

Tracking (or receipt) number

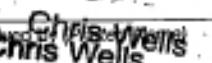
Track It

## Manage Incoming Packages

Track all your packages from a dashboard.  
No tracking numbers necessary.

Sign up for My USPS &gt;



<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature   <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Recipient Name  <span style="border: 1px solid black; padding: 2px;">SEP 07 2018</span></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes    If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p>BCS Insurance Company    elo CT Corporation System    1999 Bryan St, Ste 900    Dallas, Tx 75201</p> <p></p> <p>9590 9402 1286 5246 6498 01</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Priority Mail Express®  <input type="checkbox"/> Adult Signature  <input type="checkbox"/> Adult Signature Restricted Delivery  <input checked="" type="checkbox"/> Certified Mail®  <input type="checkbox"/> Certified Mail Restricted Delivery  <input type="checkbox"/> Collect on Delivery  <input type="checkbox"/> Collect on Delivery Restricted Delivery  <input type="checkbox"/> Insured Mail  <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Registered Mail™  <input type="checkbox"/> Registered Mail Restricted Delivery  <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Signature Confirmation™  <input type="checkbox"/> Signature Confirmation  <input type="checkbox"/> Restricted Delivery</p>	
<p>2. Article Number (Transfer from service label)</p> <p>2015 3430 0000 1764 2209</p>		<p>Domestic Return Receipt</p>	

## CIVIL PROCESS REQUEST FORM

9/27/2016 3:46:30 PM  
 Page 18 of 34  
 Harris County  
 Envelope No: 12931156  
 File Date: 9/27/2016 3:46:30 PM

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING TO BE SERVED  
 FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

CASE NUMBER: 2016-55855

CURRENT COURT: 234<sup>TH</sup> Harris County

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): Plaintiff's Amended Original Petition

FILE DATE OF MOTION: September 27, 2016

Month/ Day/ Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: North American Benefits Company

ADDRESS: 20 Valley Stream Parkway, Suite 310, Malvern, Pennsylvania 19355

AGENT, (if applicable): Commissioner of Insurance, 333 Guadalupe Street, Austin, Texas 78701

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): Citation

SERVICE BY (check one):

<input checked="" type="checkbox"/> ATTORNEY PICK-UP	<input type="checkbox"/> CONSTABLE
<input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____	Phone: _____
<input type="checkbox"/> MAIL	<input type="checkbox"/> CERTIFIED MAIL
<input type="checkbox"/> PUBLICATION: Type of Publication: _____	<input type="checkbox"/> COURTHOUSE DOOR, or <input type="checkbox"/> NEWSPAPER OF YOUR CHOICE: _____
<input type="checkbox"/> OTHER, explain _____	

ATTENTION: Effective June 1, 2010

For all Services Provided by the DISTRICT CLERKS OFFICE requiring our office to MAIL something back to the Requesting Party, we require that the Requesting Party provide a Self-Addressed Stamped Envelope with sufficient postage for mail back. Thanks you,

\*\*\*\*\*

2. NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AGENT, (if applicable): \_\_\_\_\_

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): \_\_\_\_\_

SERVICE BY (check one):

<input type="checkbox"/> ATTORNEY PICK-UP	<input type="checkbox"/> CONSTABLE
<input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____	Phone: _____
<input type="checkbox"/> MAIL	<input type="checkbox"/> CERTIFIED MAIL
<input type="checkbox"/> PUBLICATION: Type of Publication: _____	<input type="checkbox"/> COURTHOUSE DOOR, or <input type="checkbox"/> NEWSPAPER OF YOUR CHOICE: _____
<input type="checkbox"/> OTHER, explain _____	

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: Muhammad S. Aziz TEXAS BAR NO./ID NO. 24043538

MAILING ADDRESS: 800 Commerce, Houston, Texas 77002

PHONE NUMBER: 713-226-5131 FAX NUMBER: 713-225-0827  
 area code phone number

area code fax number

EMAIL ADDRESS: [maziz@abrahamwatkins.com](mailto:maziz@abrahamwatkins.com)

**CAUSE NO. 2016-55855****SHANNON ABEL****V.****BCS INSURANCE COMPANY and  
NORTH AMERICAN BENEFITS  
COMPANY****IN THE DISTRICT COURT****HARRIS COUNTY, TEXAS****234<sup>th</sup> JUDICIAL DISTRICT****PLAINTIFF'S AMENDED ORIGINAL PETITION  
AND REQUEST FOR DISCLOSURE****TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES, SHANNON ABEL, Plaintiff, complaining of BCS INSURANCE COMPANY and NORTH AMERICAN BENEFITS COMPANY and for cause of action would respectfully show the court the following:

**I. DISCOVERY CONTROL PLAN**

Plaintiff files this petition under a Level 3 Discovery Control Plan.

**II. REQUEST FOR DISCLOSURE**

Pursuant to Rule 194.1 *et seq.* of the Texas Rules of Civil Procedure, Plaintiff hereby requests that Defendants disclose the information or material described in Rule 194.2 within fifty days of the service of this request at the office of the undersigned.

**III. PARTIES**

Plaintiff, Shannon Abel, is a resident of Brazoria County, Texas.

Defendant, BCS Insurance Company, is a foreign insurance company doing business in the State of Texas and has been served through its registered agent CT Corporation System, 350 North St. Paul Street, Dallas, Texas 75201.

Plaintiff specifically invokes the right to institute this suit against whatever entity was conducting business using the assumed or common name of "BCS Insurance Company" with respect to the events described in this Petition. Plaintiff expressly invokes the right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time upon the motion of any party or of the Court.

Defendant North American Benefits Company is a foreign entity doing business in the State of Texas as a third party administrator and may be served with process through the Commissioner of Insurance, 333 Guadalupe Street, Austin, Texas 78701 who may effectuate service at North American Benefits Company's principal place of business, 20 Valley Stream Parkway, Suite 310, Malvern, Pennsylvania 19355.

Plaintiff specifically invokes the right to institute this suit against whatever entity was conducting business using the assumed or common name of "North American Benefits Company" with respect to the events described in this Petition. Plaintiff expressly invokes the right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time upon the motion of any party or of the Court.

#### IV. JURISDICTION

The Court has jurisdiction of the subject matter of this lawsuit and the amount in controversy is above the minimum jurisdictional limits of this Honorable Court. Plaintiff seeks monetary relief of more than \$200,000.00 but less than \$1,000,000.00.

This court has jurisdiction over Defendants because they purposefully availed themselves of the privilege of conducting activities in the State of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendants. The assumption of jurisdiction over these Defendants will not offend traditional notions of fair play and substantial justice and is consistent

with the constitutional requirements of due process.

Plaintiff would show that these Defendants had continuous and systematic contacts with the State of Texas sufficient to establish general jurisdiction. Furthermore, Plaintiff would show that these Defendants engaged in activities engaged in activities constituting business in the State of Texas as provided by Section 17.042 of the Texas Civil Practice and Remedies Code because said Defendants contracted with a Texas resident and performance of the agreement in whole or in part was to occur in Texas.

V. VENUE

Venue is proper in Harris County, Texas, pursuant to Texas Civil Practice and Remedies Code § 15.032 because this suit is against a life and accident insurance company and Harris County is the county in which the loss occurred.

VI. FACTS

On or about April 5, 2013, Plaintiff's late husband, Ahmad Naser ("Decedent"), was working as a tow truck driver when he stopped to assist the driver of a vehicle stalled on the side of the road at the 6300 block of the Southwest Freeway, Harris County, Texas. As he was providing this assistance, the stalled vehicle was struck by a drunk driver, resulting in the death of Ahmad Naser.

Decedent was an independent contractor who provided services for U.S. Gulf Coast Auto Sales, Inc. On the date of his death, Decedent was an eligible person under an occupational accident policy (Policy No. 9613-000-621-010104) issued to U.S. Gulf Coast Auto Sales by Defendant BCS Insurance. Said policy provided for accidental death benefits. Shannon Abel submitted an accidental death claim to BCS. On March 4, 2016, she received a letter from the

administrator of the policy—Defendant North American Benefits Company—denying her claim and refusing to provide the benefits provided for in the policy.

## VII. CAUSES OF ACTION

### **A. BREACH OF CONTRACT**

On April 5, 2013, the date of Decedent's death, he was covered by an insurance policy issued and administered by Defendants, which provided for accidental death benefits. Plaintiff informed Defendants of her husband's death and that she intended to make a claim for accidental death benefits. Defendants refuse and continue to refuse to provide coverage to Plaintiff under the above-identified policy. The conduct of Defendants in denying Plaintiff's claim for accidental death benefits constitutes breach of contract. Plaintiff sues for the amount of her damages up to the policy limits. Plaintiff also sues for reasonable and necessary attorney's fees pursuant to §38.001 of the Texas Civil Practice and Remedies Code.

### **B. BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING**

Defendants owed Plaintiff a duty of good faith and fair dealing because there was an insurance contract issued by Defendants under which Plaintiff's husband was insured. Defendants owe a duty of good faith and fair dealing to its insured, like Plaintiff and her late husband. Defendants had no reasonable basis to deny or delay the payment of Plaintiff's claim because they knew that coverage of Plaintiff's claim was reasonably clear.

### **C. VIOLATIONS OF CHAPTER 541 OF THE TEXAS INSURANCE CODE**

Defendants have engaged in unfair and deceptive acts and practices in the business of insurance and have thus violated Chapter 541 of the Texas Insurance Code. Specifically, Defendants have violated Chapter 541 in the following respects:

- a. Misrepresenting to a claimant a material fact or policy provision relating to coverage at issue in violation of section 541.060(a)(1);

- b. Failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which the insurer's liability has become reasonably clear in violation of section 541.060(a)(2);
- c. Refusing to pay a claim without conducting a reasonable investigation with respect to the claim in violation of section 541.060(a)(7).

#### **D. VIOLATIONS OF CHAPTER 542 OF THE TEXAS INSURANCE CODE**

Plaintiff had a claim under a policy with Defendants. Plaintiff gave Defendants notice of her claim. Defendants are liable for the claim because Plaintiff's husband was an eligible person under a policy providing for accidental death benefits. Plaintiff presented Defendants with her claim. However, Defendants did not promptly investigate and/or pay the claim. Under Chapter 542 of the Texas Insurance Code, an insurer is liable if it does not timely pay a claim, wrongfully rejects a valid claim, or takes no action. Here, Defendants wrongfully rejected Plaintiff's claim and failed to timely pay the claim. For these reasons, Defendants are liable for violating Chapter 542 of the Texas Insurance Code.

#### **VIII. ADDITIONAL DAMAGES**

Defendants' conduct and violations of the Texas Insurance Code were committed knowingly as that term is defined by the Texas Insurance Code. Plaintiff therefore sues for "additional damages" to be determined by the trier of fact, not to exceed three times the amount of actual damages.

#### **IX. ATTORNEYS' FEES**

Plaintiff seeks recovery of such attorneys' fees and costs as provided under the Texas Civil Practice and Remedies Code.

**X. DAMAGES**

Plaintiff seeks compensation for the following damages:

- a. Actual damages;
- b. Past mental anguish of Plaintiff, and that which she will, in all probability, suffer in the future;
- c. Costs of suit, including reasonable attorneys' fees;
- d. Prejudgment and postjudgment interest as allowed by law;
- e. 18% interest on Plaintiff's claim for late payment under the Insurance Code;
- f. Additional damages for up to three times actual damages under the Insurance Code and;
- and
- g. Such other and further relief to which Plaintiff may justly be entitled.

**XI. CONDITIONS PRECEDENT**

All conditions precedent have been performed or have occurred. TEX. R. CIV. P. 54.

**XII. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited in terms of law to appear and answer herein, that upon final trial and hearing hereof, that Plaintiff recovers damages from Defendants, jointly and separately, in accordance with the evidence; that Plaintiff recovers costs of court herein expended; that Plaintiff recovers interest to which Plaintiff is justly entitled under the law, both prejudgment and post-judgment; that Plaintiff recovers actual damages; that Plaintiff recovers compensatory damages; that Plaintiff recovers punitive damages; that Plaintiff recovers 18% interest on its claim for late payment, that Plaintiff recovers additional damages of up to three times actual damages under its Insurance Code

claims, and for such other further relief, both general and special, both in law and in equity, to which Plaintiff may be justly entitled.

[signature on following page]

Respectfully submitted,

**ABRAHAM, WATKINS, NICHOLS,  
SORRELS, AGOSTO & FRIEND**

/s/ Muhammad S. Aziz

MUHAMMAD S. AZIZ  
State Bar No. 24043538  
Federal Bar No. 868540  
800 Commerce Street  
Houston, Texas 77002  
Telephone: (713) 222-7211  
Facsimile: (713) 225-0827  
maziz@abrahamwatkins.com

**ATTORNEY FOR PLAINTIFF**

**TEXAS DEPARTMENT OF INSURANCE****General Counsel Division (113-2A)**

333 Guadalupe, Austin, Texas 78701 ★ PO Box 149104, Austin, Texas 78714-9104  
(512) 676-6585 | F: (512) 490-1064 | (800) 578-4677 | TDI.texas.gov | @TexasTDI

September 12, 2016

Muhammad S. Aziz  
Abraham, Watkins, Nichols, Sorrels, Agosto & Friend  
800 Commerce Street  
Houston, Texas 77002

RE: Cause No.: 2016-55855; styled *Shannon Abel v. BCS Insurance Company and North American Benefits Company*; in the 234<sup>th</sup> Judicial District Court, Harris County, Texas

Greetings:

On September 6, 2016, the enclosed documents were received in the office of the Commissioner of Insurance for service of process. The documents received are being returned to your office for the reasons indicated below.

**North American Benefits Company's** mailing address must be noted on the citation. Please refer to Texas Administrative Code, Title 28, Chapter 7, Rule §7.1414. Enclosed is the company profile.

Refer to Chapter 804 of the Texas Insurance Code for service of process information.

Please do not hesitate to call me if you have questions.

Sincerely,

Tish Wilhelm  
General Counsel  
[tish.wilhelm@tdi.texas.gov](mailto:tish.wilhelm@tdi.texas.gov)  
(512) 676-6543

Enclosures

c: Harris County District Clerk  
**E-filed**

## LAW OFFICES

**ABRAHAM, WATKINS, NICHOLS,  
SORRELS, AGOSTO & FRIEND**

NICK C. NICHOLS, P.C.  
RANDALL O. SORRELS, P.C.\*+  
BENNY AGOSTO, JR., P.C.\*  
MUHAMMAD S. AZIZ, P.C.\*  
BRANT J. STOGNER P.C.\*

CLYDE J. "JAY" JACKSON, III\*  
EMRANANA MANZANARES, R.N., J.D.  
BRIAN S. HUMPHREY, II  
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[www.abrahamwatkins.com](http://www.abrahamwatkins.com)

DALE FRIEND  
RETired PARTNER

FRANK T. ABRAHAM  
(1924-2004)

W. W. WATKINS  
(1920-1987)

\* BOARD CERTIFIED: PERSONAL INJURY TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION  
\*\* BOARD CERTIFIED: CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

October 4, 2016

**Via E-File**

Harris County District Clerk

*Re: Cause No. 2016-55855; Shannon Abel v. BCS Insurance Company and North American Benefits Company; In the 234<sup>th</sup> District Court of Harris County, Texas*

Dear Clerk:

Please accept this letter as notification of the \$4.00 payment of the remaining fee associated with the citation for North American Benefits Company requested on September 27, 2016 in the above-referenced matter. Please issue the requested citation as soon as possible.

If you have any additional questions, please do not hesitate to contact me.

Sincerely,

*/s/ Jessica L. Dean*

Jessica L. Dean, Assistant to  
Muhammad S. Aziz



CAUSE NUMBER 2016-55855

ABEL, SHANNON  
PLAINTIFF

VS

BCS INSURANCE COMPANY  
LLC, ET AL  
DEFENDANT

IN THE DISTRICT COURT  
HARRIS COUNTY, TEXAS  
234<sup>th</sup> JUDICIAL DISTRICT

AFFIDAVIT OF SERVICE

BEFORE ME, the undersigned authority, on this day Andrew R. Espinosa personally appeared and stated under oath as follows

- 1 My name is Andrew R. Espinosa I am over the age of eighteen (18), I am not a party to this case, and have no interest in its outcome I am in all ways competent to make this affidavit and this affidavit is based on personal knowledge The facts stated herein are true and correct My business address is **9702 Coahuila St, Houston, TX 77013**.
- 2 **ON 09/02/2016 @ 11:00 AM – CITATION, PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE CAME TO HAND**
- 3 **ON 09/06/16 @ 3:26 PM – The above named documents were delivered to NORTH AMERICAN BENEFITS COMPANY, BY SERVING THE COMMISSIONER OF INSURANCE @ 333 GUADALUPE STREET, AUSTIN, TX 78701 By Certified Mail, Return Receipt Requested**
- 4 **SEE ATTACHED CERTIFIED MAIL USPS TRACKING CONFIRMATION OF DELIVERY ATTACHED THE ORIGINAL RETURN GREEN CARD WAS NEVER RETURNED)**

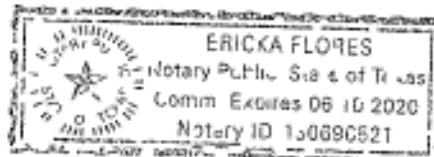
FURTHER AFFIANT SAYETH NOT

  
Andrew R. Espinosa, Affiant  
SCH# 454, EXP 9/30/17

**FILED**  
Chris Daniel  
District Clerk  
OCT 05 2016  
Time  
By  
Harris County Texas  
Deputy

SWORN TO AND SUBSCRIBED before me by Andrew R. Espinosa appeared on this 24 day of September, 2016 to attest witness my hand and seal of office

  
NOTARY PUBLIC IN AND  
FOR THE STATE OF TEXAS



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Updated Delivery Day Tuesday September 6 2016

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## Available Actions

Postal Product: First Class Mail®      Features: Certified Mail™, Return Receipt  
See tracking for related item 9590940222416193144948

Text Updates  
Email Updates

DATE & TIME	STATUS OF ITEM	LOCATION
September 6 2016 3:26 pm	Delivered: Left with Individual	AUSTIN TX 78701

Your item was delivered to an individual at the address at 3:26 pm on September 6 2016 in AUSTIN TX 78701

September 6 2016 11:03 am	Arrived at Unit	AUSTIN TX 78744
September 6 2016 7:13 am	Out for Delivery	AUSTIN TX 78701
September 6 2016 7:03 am	Sealing Complete	AUSTIN TX 78701
September 6 2016 1:00 am	Departed USPS Facility	AUSTIN TX 78710
September 3 2016 8:08 am	Arrived at USPS Destination Facility	AUSTIN TX 78710
September 2 2016 11:22 pm	Departed USPS Origin Facility	NORTH HOUSTON TX 77315
September 2 2016 10:59 pm	Arrived at USPS Origin Facility	NORTH HOUSTON TX 77315
September 2 2016 5:13 pm	Departed Post Office	HOUSTON TX 77002
September 2 2016 7:52 am	Acceptance	HOUSTON TX 77002

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Return Receipt (electronic) \$ 0.00

Certified Mail Restricted Delivery \$ 0.00

Adult Signature Required \$ 1.00

Adult Signature Restricted Delivery \$ 1.00

Postage \$11.68

6 \$6.68

Total Postage and Fees \$6.68

50 (2)

5 \$6.68

Send To: North American Benefits Company  
Street and Apt. No. or PO Box No.  
333 Guadalupe Street  
City State Zip 78701  
Austin, TX 78701

Postmark: Houston, TX 77001  
Date: SEP-2-2011  
Time: 10:00 AM  
Year: 2011  
USPS

PS Form 3808, April 2015 PPN 7238-02-9847

See Reverse for Instructions

## CAUSE NO. 2016-55855

SHANNON ABEL, Plaintiff,	§ § § § § § § § §	IN THE DISTRICT COURT
v.		234 <sup>th</sup> JUDICIAL DISTRICT
BCS INSURANCE COMPANY and NORTH AMERICAN BENEFITS COMPANY Defendants		HARRIS COUNTY, TEXAS

### **DEFENDANTS' ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, BCS Insurance Company and North American Benefits Company, Defendants in the above-styled and numbered cause of action and file this Original Answer to Plaintiff's Original Petition and would respectfully show the Court the following:

#### **I. GENERAL DENIAL**

Defendants deny each and every, all and singular, of Plaintiff's allegations and demands strict proof thereof by a preponderance of the credible evidence.

#### **II. JURY DEMAND**

Defendants respectfully demand a trial by jury in accordance with Rule 216 of the Texas Rules of Civil Procedure.

#### **III. DEFENSES**

##### **First Defense**

1. The Policy referred to in Paragraph VI of Plaintiff's Petition requires that the "injury" arise "solely out of or in the course of the Insured's regular occupation or performing an alternative occupation at the request and direction of the Policyholder." The Policy referred to in Paragraph VI of Plaintiff's Petition names US Gulf Coast Auto Sales, Inc., as the "Policyholder." There is no

coverage under the Policy because the decedent was neither in the course of US Gulf Coast Auto Sales, Inc.'s regular occupation nor performing an alternative occupation at the request of US Gulf Coast Auto Sales, Inc. at the time of the subject accident.

**Second Defense**

2. Plaintiff has no cause of action for breach of contract as she is not a party to any contract with Defendants, nor is she a beneficiary to any contract with Defendants.

**Third Defense**

3. The denial of Plaintiff's claim is supported by a reasonable basis.

**Fourth Defense**

4. Defendants deny that all conditions precedent to Plaintiff bringing suit were performed, occurred, or were waived.

5. Defendants specifically reserve the right to assert any other special or affirmative defenses which might be applicable in this proceeding, as provided by the Texas Rules of Civil Procedure.

**IV. PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Defendants BCS Insurance Company and North American Benefits Company respectfully pray that Plaintiff take nothing by her suit, that Defendants recover their costs, and for such other and further relief, both at law and in equity, to which Defendants may be justly

Respectfully Submitted,

**LEWIS BRISBOIS BISGAARD & SMITH LLP**

*ls/Sarah R. Smith*

SARAH R. SMITH  
Texas Bar No. 24056346  
[sarah.smith@lewisbrisbois.com](mailto:sarah.smith@lewisbrisbois.com)  
24 Greenway Plaza, Suite 1400  
Houston, Texas 77046  
(713) 659-6767 Telephone  
(713) 759-6830 Facsimile

*Attorneys for Defendant, BCS Insurance  
Company and North American Benefits Company*

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above pleading has been forwarded pursuant to the Federal Rules of Civil Procedure on this 6<sup>th</sup> day of October, 2016.

Muhammad S. Aziz  
ABRAHAM, WATKINS, NICHOLS,  
SORRELS, AGOSTO & FRIEND  
800 Commerce Street  
Houston, Texas 77002

**Via E-Service**

*ls/Sarah R. Smith*  
SARAH R. SMITH